

IN RE: PETITION FOR ZONING VARIANCE
5W/5 8th St., 183' NW c/1
Cuckold Point Road-Lot 129
7th Councilmanic District
15th Election District
Legal Owner:
RLC, Inc.
Contract Purchaser:
Rita Ashburn

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-372 A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Section 1802.3.B. to permit a lot width of 50' in lieu of the minimum 55', as more particularly described on Petitioner's Exhibit 1.

The Petitioner appeared and testified. There were no Protestants. The Petitioner provided testimony and evidence concerning Section 307.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and their hardship and/or practical difficulty. However, the Petitioner offered no evidence concerning the requirements of the Chesapeake Bay Critical Area laws, specifically, Sections 307.2 and 500.14 of the B.C.Z.R.

Therefore, it would be improper to grant the relief requested without proof that all of the requirements of the law had been fulfilled. The burden placed upon the party seeking a variance is to go forward with evidence that establishes the requirements set forth in the statute. Any Petitioner that does not meet his burden of going forward must be denied the relief requested. See Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A2d. 220 (1974) and McLean v. Soley, 270 Md. 208 (1973).

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

County this 23rd day of March, 1989 that the Petition for Zoning Variance from Section 1802.3.B. to permit a lot width of 50' in lieu of the minimum 55', as more particularly described on Petitioner's Exhibit 1 be and is hereby DENIED.

J. Robert Haines
ZONING COMMISSIONER FOR
BALTIMORE COUNTY

JRH/mm
cc: Peoples Counsel
Rita Ashburn, 2811 11th Street, Baltimore, Md. 21219
Mr. Richard Theibert, 708 Deepdene Road, Baltimore, Md. 21210
Mr. Gerald Ruth, 8812 Hinton Avenue, Baltimore, Md. 21219

ORDER RECEIVED FOR FILING
Date 3/23/89
By J. Robert Haines

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

March 21, 1989



Dennis F. Rasmussen
County Executive

RLC, Inc.
Mr. Gerald Ruth, Vice President
P.O. Box 320
White Marsh, Maryland 21162

RE: Petition for Zoning Variance
Case 89-372A
Legal Owner: RLC, Inc.
Contract Purchaser: Rita Ashburn

Gentlemen:

Enclosed please find the decision rendered on the above captioned case. The Petition for Zoning Variance has been denied, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:mmm
att.
cc: Peoples Counsel
Mr. Rita Ashburn, 2811 11th Street, Baltimore, Md. 21219
Mr. Richard Theibert, 708 Deepdene Road, Baltimore, Md. 21210

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-372-A CRITICAL AREA
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.B. To permit a lot width of 50' in lieu of the minimum 55'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

When lots were recorded they were 50' wide. Will not effect the overall density of the recorded plat. Lots are good amount over the required area.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Rita Ashburn
(Type or Print Name)
Signature Rita Ashburn
Address 2811 11th Street
Baltimore, MD 21219
City and State
Legal Owner(s): RLC, Inc.
(Type or Print Name)
Signature Rita Ashburn
Address P.O. Box 320
White Marsh, MD 21162
City and State
Attorney for Petitioner: (Type or Print Name) Address Phone No.
Signature City and State
Address Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State Name
Attorney's Telephone No. Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 23rd day of March, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 16th day of March, 1989, at 9 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.
(over)

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 12th Date of Posting 3/21/89
Posted for: Variance
Petitioner: RLC, Inc. - Rita Ashburn
Location of property: 5W/5 8th St., 183' NW Cuckold Pk. Rd. Lot #129
Location of Sign: Along 8th St., corner of Cuckold Pk. Rd., on property of Petitioner
Remarks: As above
Posted by: J. Robert Haines Date of return: 3/23/89
Number of Signs: 1

CERTIFICATE OF PUBLICATION

OFFICE OF
Dundalk Eagle

4 N. Center Place
P.O. Box 8936
Dundalk, Md. 21222

March 2, 1989

THIS IS TO CERTIFY, that the annexed advertisement of J. Robert Haines in the matter of Zoning Hearings - Case #89-372-A - P.O. #10426 - Reg. #M25289 - 87 was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for one week before the 3rd day of March 1989; that is to say, the same was inserted in the issues of March 2, 1989

Kimbel Publication, Inc.
per Publisher.
By K.P. Oller

ZONING DESCRIPTION

Beginning on the southwest side of 8th Street, 30 feet wide, starting at a point 183 feet northwest of the centerline of Cuckold Point Road. Being Lot #129, Book 7, Folio 162 containing .172 acre in the 15th Election District.

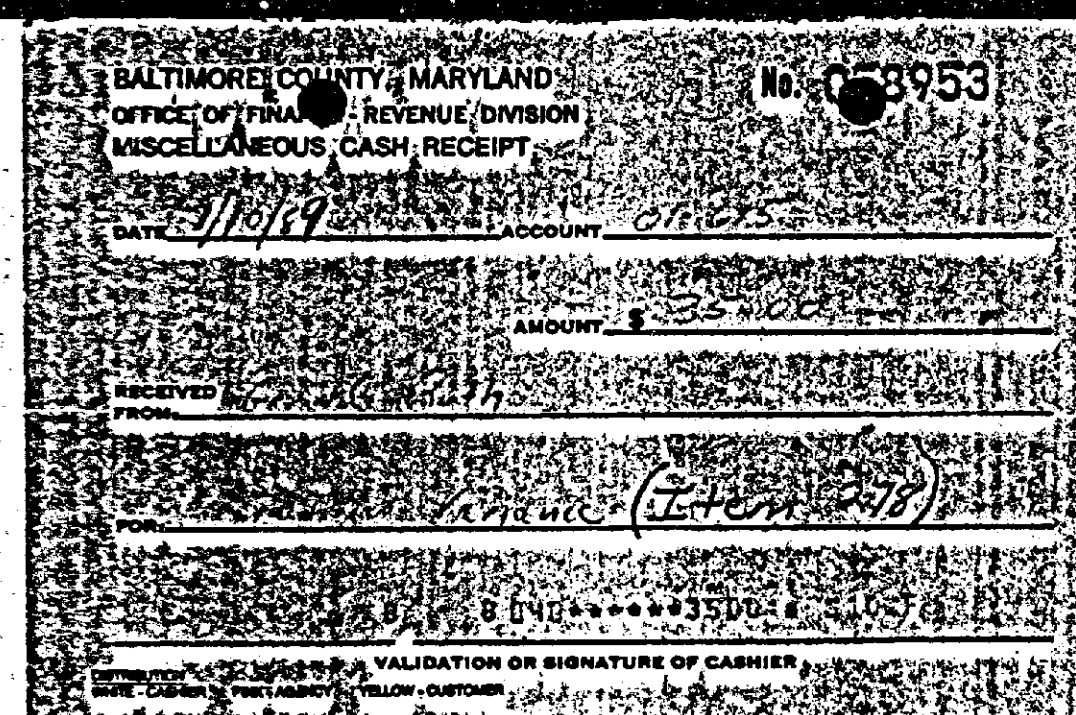
CERTIFICATE OF PUBLICATION

TOWSON, MD., March 7, 1989
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on March 2, 1989.

THE JEFFERSONIAN,

S. Zebe Orlum
Publisher

PO 10446
reg M25288
prio #39.40



Tracking System

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Date Receipt FEE
Day Month Year Number TYPE Identification Number Council District Election District Zip Code
01/10/89 058953 01 01 -615715 21217
Petitioner: Ashburn Rita (Last) (First) (Middle Initial)
Property Address: Lot 129 Eight Street (Number) (Street)

89-372-A
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Your petition has been received and accepted for filing this 25th day of January, 1989.

J. Robert Haines
ZONING COMMISSIONER
Petitioner Rita Ashburn Received by: James E. Dyer
Petitioner's Attorney's Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY, MARYLAND
OFFICE OF FIN. & REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE 3/16/89 ACCOUNT R-01-615-000
AMOUNT \$ 97.90
RECEIVED FROM: Gerald Ruth (RLC, Inc.)
FOR: RA 3/16/89 hearing 89-372-A
VALIDATION OR SIGNATURE OF CASHIER
DATE: CASHIER PREP. AGENCY YELLOW - CUSTOMER

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Date: 3/8/89

R.C. Inc.
P. O. Box 320
White Marsh, MD 21162

Re: Petition for Zoning Variance
CASE NUMBER: 89-372-A
SW/S 8th Street, 183' NW c/l Cuckold Point Road
Lot #129
15th Election District - 7th Councilmanic
Legal Owner(s): R.C. Inc.
Contract Purchaser(s): Rita Ashburn
HEARING SCHEDULED: THURSDAY, MARCH 16, 1989 at 9:00 a.m.

Gentlemen:
Please be advised that \$97.90 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

Very truly yours,

J. Robert Haines
Zoning Commissioner of
Baltimore County

JRH:gs
cc: Rita Ashburn
File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

February 15, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 89-372-A
SW/S 8th Street, 183' NW c/l Cuckold Point Road
Lot #129
15th Election District - 7th Councilmanic
Legal Owner(s): R.C. Inc.
Contract Purchaser(s): Rita Ashburn
HEARING SCHEDULED: THURSDAY, MARCH 16, 1989 at 9:00 a.m.

Variance to permit lot width of 50 ft. in lieu of the minimum 55 feet.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County
cc: R.C. Inc.
Rita Ashburn
File
Chesapeake Bay Critical Area Commission

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 3, 1989

Ms. Rita Ashburn
2811 11th Street
Baltimore, MD 21219

RE: Item No. 278, Case No. 89-372-A
Petitioner: Rita Ashburn
Petition for Zoning Variance

Dear Ms. Ashburn:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 897-3391.

Very truly yours,

James E. Dyer / jw
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: R.C. Inc.

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 406
Towson, Maryland 21204
494-3354

March 1, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Dear Mr. Haines,

The Bureau of Traffic Engineering has no comments for items number 264, 277, 278, 280, 281, 282, 283, 284, 286, 287, 288, 292, 293, 294, 295 & 296.

Very truly yours,

Michael S. Flanagan
Traffic Engineer Assoc. II

MSP/lab

RECEIVED
MAR 3 1989
ZONING OFFICE

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief

February 6, 1989

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204

Re: Property Owner: Legal Owner: R.L.C., Inc.

Location: SW/S of 8th Street, 183' NW of the center-line of Cuckold Point Road
Item No.: 278

Zoning Agency: Meeting of January 24, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature]
Planning Group
Special Inspection Division

NOTED & APPROVED:

John F. O'Neill
Fire Prevention Bureau

/s/

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines
TO: Zoning Commissioner

Date: March 6, 1989

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

Zoning Petition Nos. 89-372-A (R.C. Inc.); 89-373-A (Rutkowski);

SUBJECT: 89-377-A (Serruto) and 89-388-A (Babikow)

The petitioners listed above are all requesting setback variances to allow development on lots less than 55 feet in width. In reference to these requests, staff's primary concerns are:

1. What is the impact on adjoining property?
2. Are adequate setbacks (building to building setback should be approximately 20 to 30 feet) being provided?
3. Will the reduced lot size result in requests for additional variances?

If the petitioners request(s) are granted, staff recommends the following conditions be applied:

- All building setback lines shall be shown on the site plan and recorded by the applicant. A statement shall be included stating that all development shall conform to the setbacks as shown and additional variances shall not be granted.

PK/sf

RECEIVED
MAR 9 1989
ZONING OFFICE

P.O. Box 320
White Marsh, MD 21162

Memo to Mr. J. Robert Haines
February 2, 1989
Page 2

3. Infiltration of water shall be maximized throughout the site, rather than directing flow to single discharge points <Baltimore County Code, Sec. 22-217(a)>.
- a. Storm water runoff from impervious surfaces shall be directed over pervious areas such as lawn to encourage maximum infiltration.
- b. Rooftop runoff associated with this project shall be directed via rain spouts into dry wells of an approved design to encourage maximum infiltration.

Upon compliance with the above requirements, this project will be approved. Please contact Mr. David C. Flowers at 887-3980 if you require additional information.

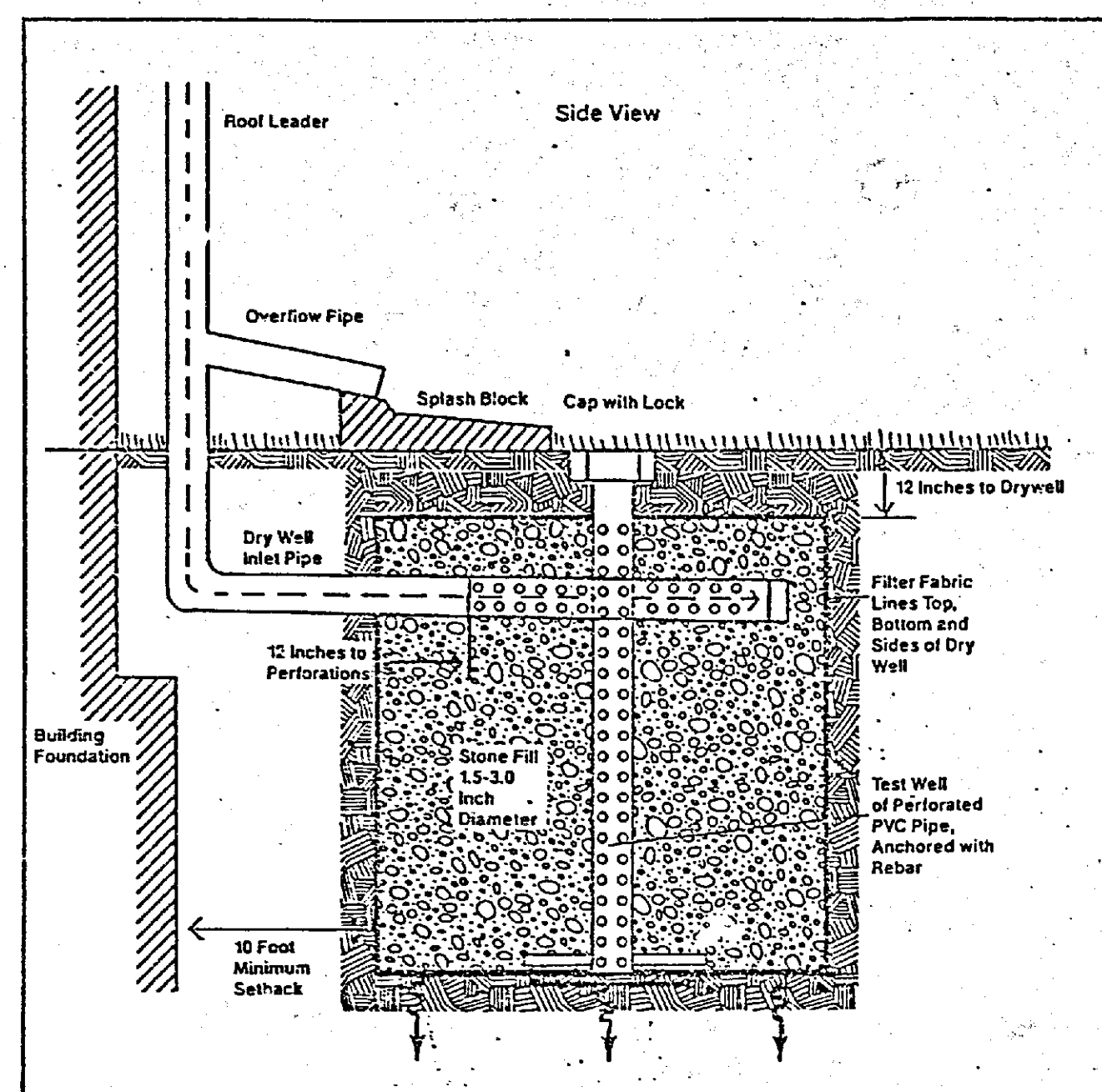
Robert W. Shesley
Robert W. Shesley, Director
Department of Environmental Protection
and Resource Management

RWS:DCF:tjg
Attachment

cc: The Honorable Ronald B. Hickernell

DESIGN 4:
Dry Well Design. (Figure 5.8). Dry wells are a basic trench variation which are designed exclusively to accept rooftop runoff from residential or commercial buildings (Figure 5.8). Additional guidance on dry well design is available from Md WRA (1988). Basically, the leader from the roof is extended into an underground trench, which is situated a minimum of ten feet away from the building foundation. Rooftop gutter screens are needed to trap any particles, leaves and other debris, and must be regularly cleared.

Figure 5.8: Dry Well Design (adapted from Md WRA, 1988)



JUDGE SOLOMON LISS
CHIEF CLERK
STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREAS COMMISSION
DEPARTMENT OF NATURAL RESOURCES
TAWES STATE OFFICE BUILDING, D-4
ANNAPOLIS, MARYLAND 21401
874-2416 or 874-2428

SARAH J. TAYLOR, PhD
EXECUTIVE DIRECTOR

February 22, 1989

RECEIVED
FEB 24 1989

ZONING OFFICE

Mr. J. Robert Haines
Zoning Commissioner
Office of Planning & Zoning
Towson, MD 21204

Re: Rita Ashburn - #89-372-A
Zoning Variance

Patrick Curran - #89-373-A
Zoning Variance

Dear Mr. Haines:

This is to acknowledge receipt of the above-referenced project applications.

These projects will be reviewed, and any comments will be sent to you upon completion of that review.

Sincerely,

Ren Serey
Ren Serey, Chief
Project Evaluation Division

RS:msl

CABINET MEMBERS

Wayne A. Canney, Jr.
Agriculture
J. Randall Evans
Employment and Economic Development
Martin Walsh, Jr.
Environment
Angela Carr
Housing and Community Development
Torrey Brown
Natural Resources
Constance Leach
Planning

TTY for Desl-Annapolis-874-2600 D.C. Metro-588-0450

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

May 19, 1989



Dennis F. Rasmussen
County Executive

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Zoning Variance
SW/S 8th Street, 183' NW c/l Cuckhold Point Road - Lot 129
15th Election District, 7th Councilmanic District
Legal Owner: RLC, Inc.; Contract Purchaser: Rita Ashburn
Case No. 89-372-A

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 24, 1989 by Richard W. Theibert, Attorney on behalf of the Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Gerald Ruth, Vice President - RLC, Inc.
P.O. Box 320, White Marsh, MD 21162

Rita Ashburn, 2811 11th Street, Baltimore, MD 21219

Richard W. Theibert, Prem & Dumlér, Suite 200, Jefferson Building
Two East Fayette Street, Baltimore, MD 21202

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204
File

APPEAL

Petition for Zoning Variance
SW/S 8th Street, 183' NW c/l Cuckhold Point Road - Lot 129
15th Election District - 7th Councilmanic District
Legal Owner: RLC, Inc.; Contract Purchaser: Rita Ashburn
Case No. 89-372-A

Petition for Zoning Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Director of DEPRM Comments

Petitioner's Exhibits: Plat for Zoning Variance

Zoning Commissioner's Order dated March 23, 1989 (Denied)

Notice of Appeal received April 24, 1989 from Richard W. Theibert,
Attorney on behalf of the Petitioner.

cc: Gerald Ruth, Vice President - RLC, Inc.
P.O. Box 320, White Marsh, MD 21162

Rita Ashburn, 2811 11th Street, Baltimore, MD 21219

Richard W. Theibert, Prem & Dumlér, Suite 200, Jefferson Building
Two East Fayette Street, Baltimore, MD 21202

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Docket Clerk

*The petition was made aware that
site is in Critical Area and the
procedure needed to file with
Dave Flowers*

NOTE TO FILE:

BOARD OF APPEALS REC'D
APPEAL REQUEST 4/24/89
FROM MR. THEIBERT (PETITIONER'S
ATTORNEY).

NO MONIES WERE REC'D
WITH REQUEST. HOWEVER
CALLS WERE MADE TO
MR. THEIBERT FOR THE
FEES.

REQUEST BEING HELD BY
BOA UNTIL MONIES ARE
REC'D. (AT WHICH TIME
OUR FILE WILL BE COPIED
& FORWARDED TO BOA)

C. RADCLIFFE
6-22-89

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

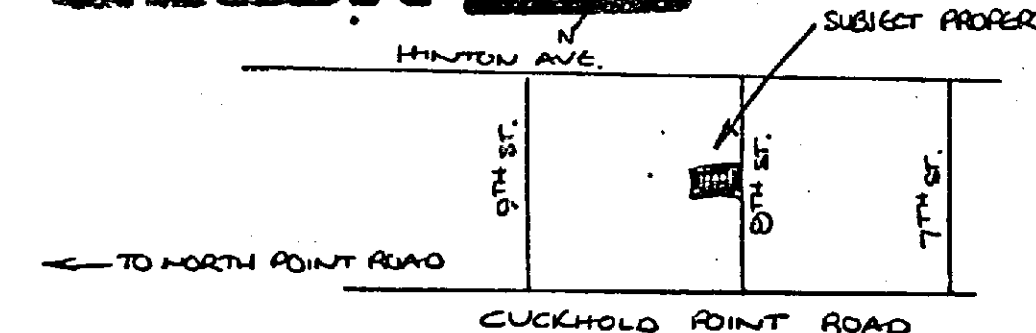
NAME

ADDRESS

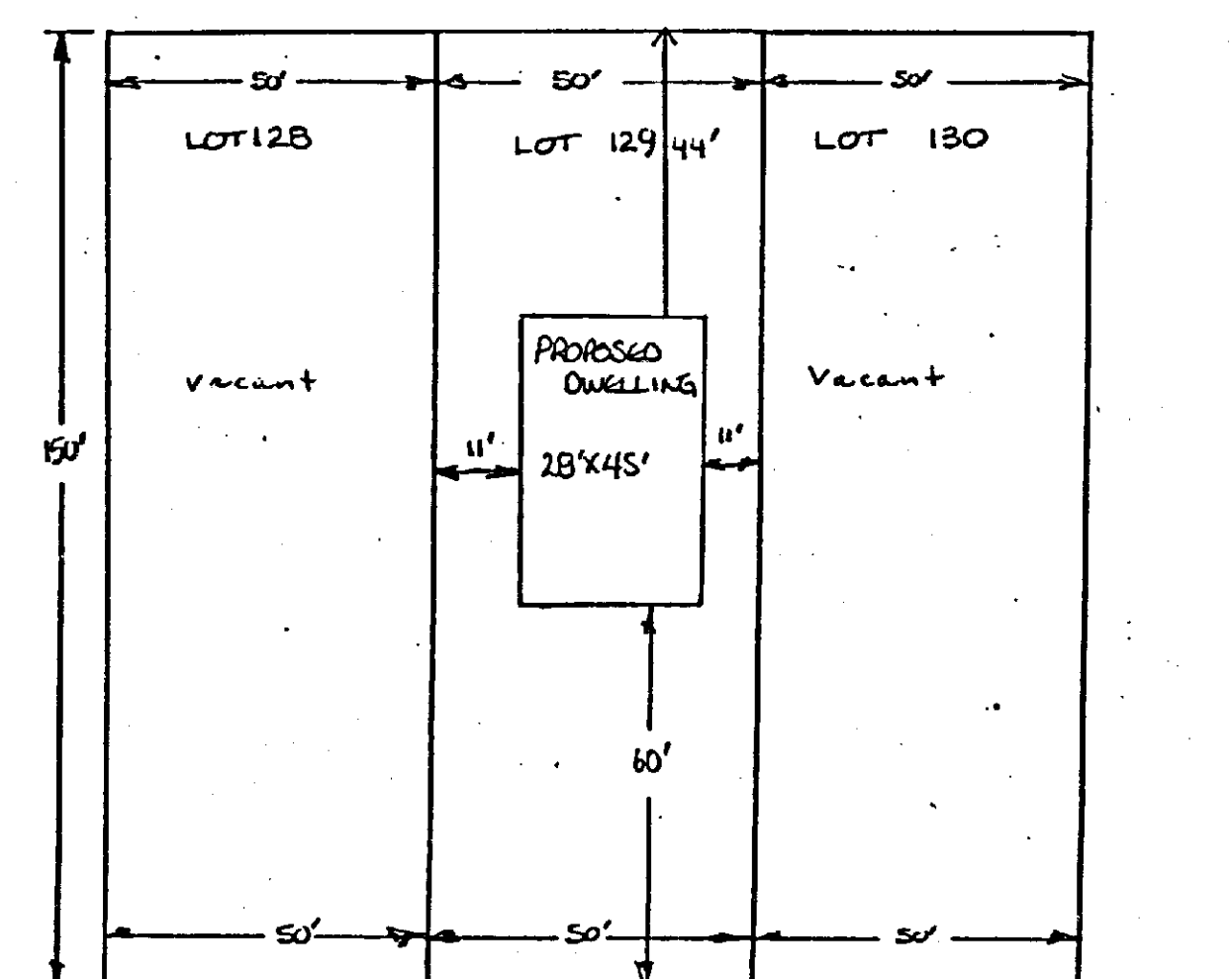
Richard Theibert
Gerald Ruth

708 DEEPDENE BLVD. 21210
592 HUNTON AVE. BALTO. 21219

PETITIONER'S
EXHIBIT 2



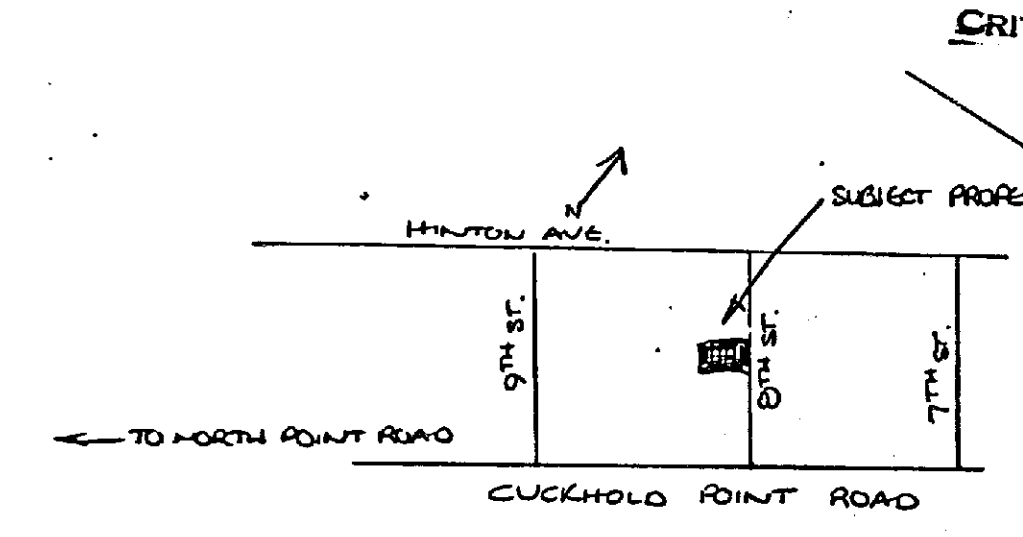
VICINITY MAP



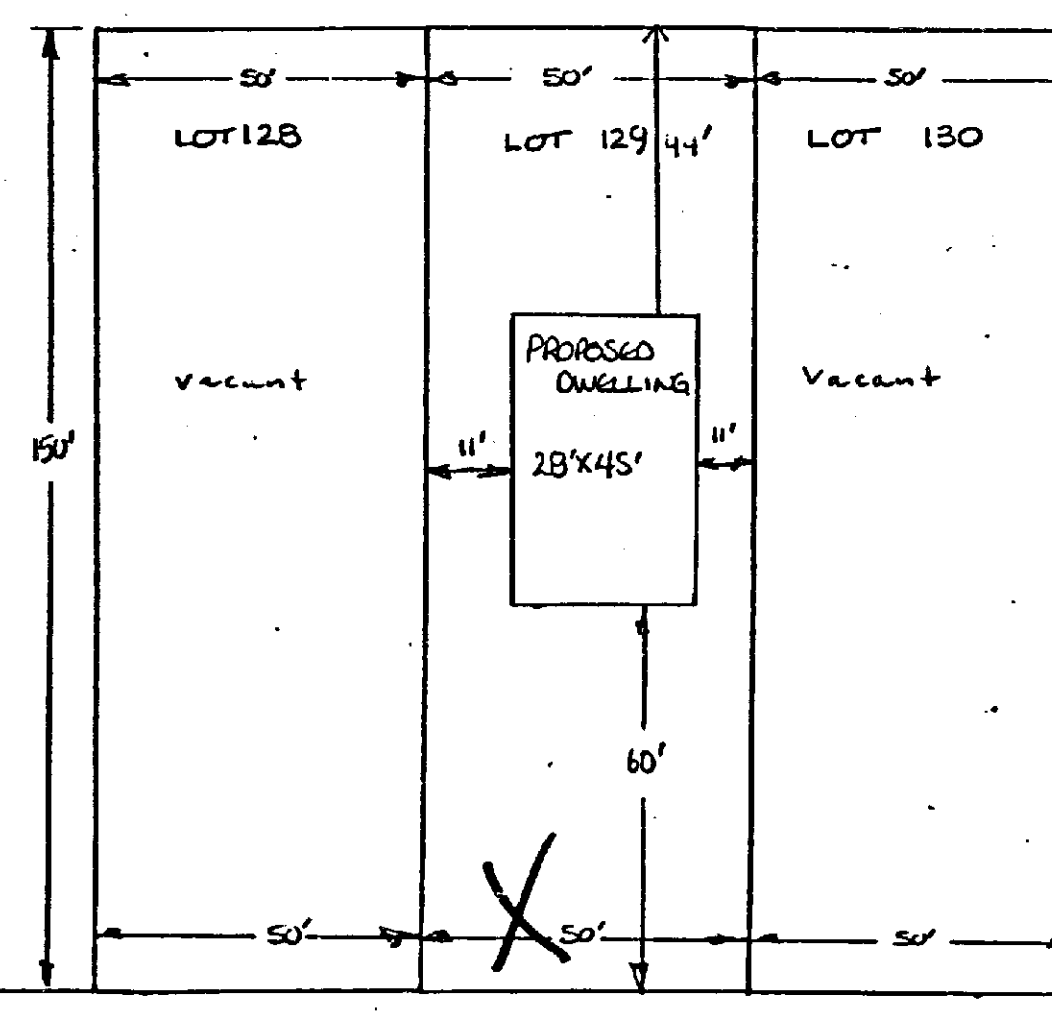
8TH STREET 20' WIDE

PLAT FOR ZONING VARIANCE
CONTRACT PURCHASER: RITA ASHBURN
DISTRICT 15 ZONED OR 55
SUBDIVISION - SWAN POINT
Book 7 Page 162

LOT 129 Owner: RLC Inc.
EXISTING UTILITIES IN 8TH STREET
SCALE 1"=20'
LOT SIZE: 7,500 SQ. FT.
Site is located within Chesapeake Critical Area



VICINITY MAP



8TH STREET 20' WIDE

PLAT FOR ZONING VARIANCE
CONTRACT PURCHASER: RITA ASHBURN
DISTRICT 15 ZONED OR 55
SUBDIVISION - SWAN POINT
Book 7 Page 162

LOT 129 Owner: RLC Inc.
EXISTING UTILITIES IN 8TH STREET
SCALE 1"=20'
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Site is located within Chesapeake Critical Area